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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Beat MOLLET et al.

Application No.: 09/823,772

Group Art Unit: 6428

Filed: March 30, 2001

Examiner: K. Kerr

For: NOVEL STRAINS OF THE BACILLUS
SUBTILIS GROUP FOR FOOD FERMENTATION

Attorney Docket No.: 88265-4011

RESPONSE TO RESTRICTIONAssistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the office action dated September 23, 2002, Applicants elect, with traverse, the invention of Group I, claims 1-8, for examination at this time.

Applicants respectfully request reconsideration of this requirement. Method claims 9-14 (Group II) are directed to the use of the *B. subtilis* strains of claims 1-8. Restriction is not proper between the claims of Groups I and II because a review of any prior art references that discloses the specific bacteria strains would require that any references that disclose the use of strains to be examined as well. As the claim groupings are sufficiently related, it should not pose an additional burden on the Examiner to review the patentability of the method of use claims, since references that disclose the use of the strains must be reviewed to determine whether the strains themselves are patentable. Thus, the restriction requirement should be withdrawn.

No fee is believed to be due for this response. Should any fees be required, please charge such fees to Winston & Strawn Deposit Account No. 501-814.

Respectfully submitted,

Date:

10/15/02

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